

7819.1250 INDEMNIFICATION.

Subpart 1. **Authority, generally.** As a condition for issuing a permit for work on a public right-of-way, a local government unit may require the permittee to indemnify the local government unit against liability claims. The local government unit may require indemnification when a permit authorizes a permittee to obstruct or excavate on or within a public right-of-way to install, maintain, or repair the permittee's facilities.

Subp. 2. **Claims indemnified.** The local government unit may require the permittee to defend, indemnify, and hold harmless the local government unit from all liability or claims of liability for bodily injury or death to persons, or for property damage, in which the claim:

A. alleges a negligent or otherwise wrongful act or omission of the permittee or its employee, agent, or independent contractor in installing, maintaining, or repairing the permittee's facilities; and alleges that the local government unit is liable, without alleging any independent negligent, or otherwise wrongful, act or omission on the part of the local government unit; or

B. is based on the local government unit's negligent or otherwise wrongful act or omission in issuing the permit or in failing to properly or adequately inspect or enforce compliance with a term, condition, or purpose of the permit granted to the permittee.

Subp. 3. **Claims not indemnified.** A permittee is not required to indemnify a local government unit for losses or claims occasioned by the negligent or otherwise wrongful act or omission of the local government unit, except:

A. to the extent authorized in subpart 2 regarding the issuance of a permit or the inspection or enforcement of compliance with the permit; or

B. when otherwise provided in an applicable franchise agreement.

Subp. 4. **Remedy is additional; subrogation.** A defense or indemnification of a local government unit by a permittee is deemed not to be a waiver of any defense or immunity otherwise available to the local government unit.

A permittee, in defending any action on behalf of the local government unit, is entitled to assert every defense or immunity that the local government unit could assert in its own behalf.

Subp. 5. **Local government unit's authorization to proceed.** A local government unit's authorization to proceed with excavation or obstruction in the right-of-way pursuant to notice under part 7819.1200 is deemed a permit for the purpose of this part.

Statutory Authority: *MS s 237.163*

History: *23 SR 2004*

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